

87<sup>th</sup> Legislative Session – 2012

Committee: Senate Judiciary

Tuesday, January 31, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Vehle  
P Nygaard  
P Hunhoff (Jean)  
P Buhl  
P Begalka  
P Cutler, Vice-Chair  
P Tieszen, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Craig Tieszen, Chair.

MOTION: TO APPROVE THE MINUTES OF THURSDAY, JANUARY 26, 2012

Moved by: Buhl  
Second by: Cutler  
Action: Prevailed by voice vote.

THE CHAIR DEFERRED SB 141 UNTIL THURSDAY, FEBRUARY 2, 2012

SB 68: provide that no statute of limitations applies to certain rape offenses.

Presented by: Senator Mark Johnston  
Proponents: Jolene Loetscher, self, Sioux Falls  
Patty Brooks, self, Sioux Falls  
Dianna Miller, SD Network Against Family Violence and Sexual Assault  
Paul Bachand, SD State's Attorneys Association  
Mitch Richter, SD Advocacy Network for Women  
Charlie McGuigan, Office of Attorney General  
Opponents: Lori Carpenter, self, Pierre

MOTION: AMEND SB 68

68ra

On page 2, line 7, of the printed bill, after "to" insert "subdivisions (1) or (2) of".

On page 2, line 9, after "." insert "Otherwise a charge brought pursuant to this section may be commenced at any time prior to the time the victim becomes of age twenty-five or within seven years of the commission of the crime, whichever is longer.".

Moved by: Cutler  
Second by: Nygaard  
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

MOTION: DO PASS SB 68 AS AMENDED

Moved by: Nygaard  
Second by: Buhl  
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

SB 76: revise certain provisions relating to the retirement of justices and judges.

SB 76 was previously heard on Thursday, January 26, 2012.

Presented by: Senator Russell Olson  
Proponents: Harry Christianson, self, Rapid City

MOTION: AMEND SB 76

76rc

On page 1 of the printed bill, delete lines 5 to 13, inclusive, and insert:

" 16-1-4.1. A justice of the Supreme Court is automatically retired on the first Tuesday after the first Monday of January next after the general election at which members of the Legislature are elected immediately following the attainment of age seventy of such justice. Such justice shall

conclude all matters pending before him or her unless the Supreme Court makes other provisions for the disposition of such matters. Moreover, the Chief Justice of the Supreme Court may, from year to year, permit such justice to continue to serve, after attaining retirement age, for all or any portion of the unexpired term."

On page 2, delete lines 1 to 9, inclusive, and insert:

" 16-6-31. A judge of a circuit court is automatically retired on the first Tuesday after the first Monday of January next after the general election at which members of the Legislature are elected immediately following the attainment of age seventy of such judge. Such judge shall conclude all matters pending before him or her unless the Supreme Court makes other provisions for the disposition of such matters. Moreover, the Chief Justice of the Supreme Court may, from year to year, permit such judge to continue to serve, after attaining retirement age, for all or any portion of the unexpired term."

Moved by: Nygaard  
Second by: Begalka  
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

MOTION: DO PASS SB 76 AS AMENDED

Moved by: Nygaard  
Second by: Vehle  
Action: Prevailed by roll call vote. (4-3-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Begalka

Voting No: Buhl, Cutler, Tieszen

SB 86: grant limited immunity from arrest and prosecution for certain alcohol consumption related offenses to persons who assist certain persons in need of emergency assistance or who are themselves in need of emergency assistance.

Presented by: Senator Larry Tidemann  
Proponents: Mark York, SD State University Students' Association  
Carlos Beatty Jr., self, Rapid City  
Opponents: Nancy Kuefer, self, Rapid City (Handout: #1)  
Yvonne Taylor, SD Police Chief's Association  
Matt Betzen, self, Vermillion

Jeff Miller, self, Brookings  
Byron Nogelmeier, self, Parker

Senator Craig Tieszen, Chair recessed the committee meeting at 10:00 a.m. and reconvened the committee at 12:00 p.m.

Opponents continued:

Paul Bachand, SD State's Attorneys Association  
Dick Tieszen, SD Sheriffs

MOTION: AMEND SB 86

86ra

On page 1, line 5, of the printed bill, delete everything after "any" .

On page 1, line 6, delete "consumption of alcohol" and insert "violation of § 35-9-2".

On page 1, line 10, after "of" insert "emergency".

On page 1, line 11, after "with" insert "the emergency".

On page 2, line 2, delete "offense".

On page 2, line 3, delete "arising out of underage consumption of alcohol" and insert "violation of § 35-9-2".

On page 2, line 6, after "with" insert "the emergency".

Moved by: Cutler  
Second by: Nygaard  
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

MOTION: DO PASS SB 86 AS AMENDED

Moved by: Cutler  
Second by: Buhl  
Action: Prevailed by roll call vote. (6-1-0-0)

Voting Yes: Vehle, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

Voting No: Nygaard

SB 149: revise certain provisions relating to the conditional release of persons charged with domestic abuse.

Presented by: Senator Joni Cutler

Proponents: Dianna Miller, SD Network Against Family Violence and Sexual Assault

MOTION: DO PASS SB 149

Moved by: Nygaard

Second by: Buhl

Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

MOTION: PLACE SB 149 ON CONSENT CALENDAR

Moved by: Nygaard

Second by: Cutler

Action: Failed by voice vote.

MOTION: ADJOURN

Moved by: Cutler

Second by: Buhl

Action: Prevailed by voice vote.

Rena Ortbahn  
Committee Secretary

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Craig Tieszen, Chair